Supreme Court, U.S.
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OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

JARVIS R. PETERSON
Petitioner

v.

EUROMARKET MARKET DESIGNS
d/b/a CRATE & BARREL
Respondents

On Petition For Writ Of Certiorari
To the United States Court of Appeals
for The Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

Jarvis R. Peterson
Petitioner, Pro Se
1954 Spruce Drive
Glenview, Illinois 60025
847-724-8129

BRIEF INTRODUCTORY STATEMENT

Questions presented for review will be prefaced by a brief introductory statement, to set the scene.

Memorandum of Law, under Brief. Argument by an advocate in support of his position. It is much like a brief, but in less formal style – without argument headings, tables of cases, etc.

Prima Facie Case: A case sufficient on its face, being supported by at least the requisite minimum of evidence, statement of facts that entitles a party to have the case go to a jury.

I will set the facts on a pre-sheet, followed by facts.

QUESTIONS PRESENTED FOR REVIEW

1. Retaliatory Termination

   A. Injured on job 3/15/03. Filed workers' compensation claim after complaining to supervisor for six months, on 12-17-03 (per Supervisor, K. Coakley).

   B. Job Description – revised and restated – 1-28-04 to lift 50 pounds from light package delivery. Should have been taken off heavy lifting on 3-15-03, but I was threatened with job loss.

2. In both orders:

   A. United States District Court Northern District of Illinois and the United States Court of Appeals Seventh Circuit.

   B. Never once mentioned my reviews, letter of commendation from HR Director S. Muellman, EEOC findings, doctors reports (defendants), age statements (too

old) and in-house, defendant's legal notes – which were withheld from me.

C. The orders continued to make statements that I made discriminatory remarks and was insubordinate. They were never mentioned in my reviews or the Muellman letter because they never happened.

3. My six years of reviews.

4. In-house, defendant's legal notes.

5. EEOC letters – determination.

6. Doctors reports (defendant's)

7. Charge of Discrimination (IL Department of Human Rights and EEOC).

8. Money owed me, on call hours (est. $259,000.00 plus interest).

STATEMENT REQUIRED BY RULE 29.6

Pursuant to Rule 29.6 of the Rules of this Court, the Petitioner, Jarvis R. Peterson, owns no stock in the Defendants' company.

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I. I was never allowed to speak on the case.

II. I was never allowed a bench or jury trial in either the District Court or the Seventh Circuit Appellate Court.

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PETITION FOR WRIT OF CERTIORARI

Petitioner, Jarvis R. Peterson, respectfully petitions for a Writ of Certiorari to review the Judgement of the United States Court of Appeals for the Seventh Circuit in this case.

OPINIONS BELOW

The Court of Appeals for the Seventh Circuit denying the petition for rehearing as well as their order for the original appeal – no granting of oral argument.

JURISDICTION

The Court of Appeals, Seventh Circuit, entered judgment on 5/3/07, and denied a timely petition for rehearing on 5/29/07.

STATEMENT OF THE CASE

I was told on several occasions that I was "too old" for any assistant manager or manager positions or even that of a buyer. I was not paid for on-call hours that I was promised. I was not given FT status after one year, even though earned by company policies that two months worked PT equals 1 month earned FT. I was terminated for filing a workers' compensation claim. See EEOC determination letter. The defendant's lawyers admitted in their writings that they did not disagree with the facts, which is verified in their in-house notes.

REASONS FOR GRANTING THE PETITION

I was never allowed to speak on the case; never allowed a bench or jury trial in either the District Court or the Seventh Circuit Appellate Court. Attached please find prima facie evidence with short attached explanations.

FACTS OF THE CASE

EEOC Correspondence:

1. Appointment date, after my termination, 2-11-04, within time frame of the Civil Rights Act of 1964.

2. Charge of Discrimination (Illinois Department of Human Rights)

3. EEOC Determination Letter

4. Right to Sue – Title VII / ADA/ADEA – letter

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Chicago District Office
500 West Madison Street, Suite 2800, Chicago, IL 60661

Your interview is scheduled for:

Wednesday, March 31, 2004 Time: 10:30 AM

Please complete the attached questionnaire prior to your arrival at our office. Also bring, if you have any, documents you believe would support your allegations.

Proceed to the 3rd floor and check in at the Visitor's Center, where you will be required to show some form of photo identification, for example a driver's license, to gain access to our office. If you intend to bring someone with you, please tell us more than 24 hours in advance of your appointment. Your companion will be required to show photo identification.

If you wish to cancel or reschedule your interview, please call 312-353-2713 or 800-669-4000. 72 hours advance notice of cancellation is requested.

Please be prepared to provide the following:

1. Policies related to action(s) taken against you.
2. Specific facts and details about what occurred (Who, What, Where, When, Why, How)
3. Witness information to include name, address, phone number of each witness, if known.
4. Medical documentation (if alleging disability discrimination).

NOTE: A formal Charge of Discrimination must be filed in our office within 300 days of the alleged discriminatory act.

CHARGE OF DISCRIMINATION
EEOC 210-2004-03768
Illinois Department of Human Rights

Jarvis Peterson (847) 724-8120 DOB: 04-17-1935
1954 Spruce Drive, Glenview, IL 60025

Named is the Employer That I believe Discriminated Against Me.

CRATE & BARREL 15-100 employees (847) 272-2888
1250 Techny Road, Northbrook, IL 60062

Discrimination Based On Sex, Retaliation, Age, Disability
Dates Discrimination Took Place:
Earliest: 06-05-2003 - Latest: 02-11-2004

The Particulars Are:
I. I was hired by the above named Respondent on November 18, 1997, and my last position was full-time Corporate Driver. Since I was hired, I was promised that I would be compensated for on-call hours; however, I was only compensated for hours that I worked on call. Since my employment, I was denied a managerial job, while younger female employees were selected for these jobs. During my employment, I was harassed by my managers. In December 2003, I was denied the position of Buyer and a younger female employee was selected. In May 2002, I was denied overtime pay because I went full-time. An older male part-time employee was paid overtime. On December 27, 2003, I filed a workers' compensation claim due to a work related injury. After I filed this workers' compensation claim, the Respondent believed that I had a disability. During my employment, I was subjected to age comments by managers and non-managers. On January 26, 2004, I complained internally regarding harassment. On February 11, 2004, I was terminated.

II. I believe that I have been discriminated against on the basis of my age, 68 (date of birth: April 17, 1935), in violation of the Age Discrimination in Employment Act of 1967, as amended, and because of my sex, male, in violation of Title VII of the Civil Rights Act of 1964, as amended. I also believe that I was retaliated against for opposing unlawful acts under Title VII of the Civil Rights Act of 1964. I also believe that I was discriminated against on the basis of my disability, in violation of the Americans with Disabilities Act of 1990.

I declare under penalty of perjury that the above is true and correct.

Mar. 31, 2004 /s/ Jarvis R. Peterson

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Chicago District Office
500 West Madison Street, Suite 2800
Chicago, IL 60661

EEOC Charge Number: 210-2004-03768

Jarvis Peterson
1954 Spruce Drive
Glenview, Illinois 60025 Charging Party

v.

Crate & Barrel
1250 Techny Road
Northbrook, Illinois 60062 Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue the following determination on the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII), the Age Discrimination in Employment Act of 1967, as amended (ADEA), and the Americans with Disabilities Act of 1990 (ADA).

The Respondent is an employer within the meaning of Title VII, ADEA, and ADA, and all requirements for coverage have been met.

Charging Party alleges that he was discriminated against on the basis of his sex (male), age (68), disability, and retaliated against for filing an internal complaint of discrimination, in that

he was denied a managerial and a Buyer's position, he was denied compensation for on-call hours and overtime pay, he was harassed, he was subjected to age comments, and he was terminated, in violation of Title VII, ADEA, and ADA. Charging Party also alleges that he was retaliated against for filing an internal complaint of discrimination, in violation of the ADA.

I have determined that the evidence obtained in the investigation establishes reasonable cause to believe that Respondent discriminated against Charging Party by discharging him, after he filed an internal complaint of discrimination, in violation of the ADA.

This determination is final. When the Commission finds that violations have occurred, it attempts to eliminate unlawful practices by informal methods of conciliation. Therefore, I invite the parties to join with the Commission in reaching a just resolution of this matter. Disclosure of information obtained by the Commission during the conciliation process will be made only in accordance with the Commission's Procedural Regulations (29 CFR Part 1601).

If the Respondent wishes to accept this invitation to participate in conciliation efforts, it may do so at this time by proposing terms for a conciliation agreement; that proposal should be provided to the Commission representative within 14 days of the date of this determination. The remedies for violations of the statutes we enforce are designed to make the identified victims whole and to provide corrective and preventive relief. These remedies may include, as appropriate, an agreement by the Respondent to not engage in unlawful employment practices, placement of identified victims in positions they would have held but for discriminatory actions, back pay, restoration of lost benefits, injunctive relief, compensatory and/or punitive

damages, and notice to employees of the violation and the resolution of the claim.

Should the Respondent have further questions regarding the conciliation process or the conciliation terms it would like to propose, we encourage it to contact the assigned Commission representative. Should there be no response from the Respondent in 14 days, we may conclude that further conciliation efforts would be futile or nonproductive.

Dated: On behalf of the Commission

July 20, 2004 /s/ John P. Rowe, District Director

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE – TITLE VII / ADA/ADEA
(Conciliation Failure)

To: Jarvis Peterson
1954 Spruce Drive, Glenview, IL 60025

From: Equal Employment Opportunity Commission
Chicago District Office
500 West Madison Street, Suite 2800
Chicago, IL 60661-2511

Certified: 7001 0360 0000 0463 0858

Charge Number: 210-2004-03768
EEOC Representative: Gloria Mayfield
Telephone Number: (312) 353-0806

The Commission has found reasonable cause to believe that your charge of employment discrimination is true but has not entered into a conciliation agreement to which you are a party because attempts to achieve such a voluntary settlement with respondent have been unsuccessful.

The Commission has determined that it will not bring a civil action against the respondent and accordingly is issuing this Notice of Right to Sue. With the issuance of this Notice the Commission terminates its process with respect to your charge, except that the Commission may seek status as intervener if you decide to sue on your own behalf as described below:

If you want to pursue your charge further, you have the right to

sue the respondent named in your charge in a court of competent jurisdiction. IF YOU DECIDE TO SUE, YOU MUST DO SO WITHIN NINETY (90) DAYS FROM YOUR RECEIPT OF THIS NOTICE OF RIGHT TO SUE; OTHERWISE YOUR RIGHT TO SUE IS LOST.

Your suit may include any allegation contained in your charge of employment discrimination or any matter which was or should have been discovered by the Commission during its investigation of your charge.

[dated] 8/31/04 On Behalf of the Commission
/s/ John P. Rowe, District Director

Enclosures
Information sheet
Copy of Charge

cc: Respondent, Crate & Barrel

EEOC Form 161-A (Test 10/94)

FACTS OF THE CASE

I only made one Workers' Compensation claim. The defendants and their lawyers claim that I made two claims. This is false.

Defendant's Doctor's Report dated 1/22/04.

CRATE & BARREL
Associate Report of Work-Related Injury

Location: Corporate

Associate Name: Jarvis R. Peterson
Home Address: 1954 Spruce Drive, Glenview, IL 60025
Home Phone #: 847-724-8129 DOB: 4-17-35
Date of Hire: 11-18-97 Sex: M Married

Date of Injury: Mid-March '03 Time: AM
Did not make app't to see dr. for a couple of weeks. Got worse & worse – hard time sleeping.

How did the injury occur? Heavy lifting (continuous) over 6 years.

Indicate the part(s) of the body injured: Ears

Supervisor at the time of incident: Karen Coakley
When did you report incident to a supervisor? Talked about it for years – heavy loads & lifting.
When did your symptoms first begin? Mid-March 2003.
Why did you not report it earlier? Fearful of retaliation.
Name of physician where you will seek treatment: Dr. Charles Z. Weingarten.
In your opinion, what can be done in the future to prevent similar injuries from occurring? By not lifting anything over 10 pounds – as job description stated as of 11/18/97, attached.

[Crate & Barrel disclaimer statement follows]

/s/ Jarvis R. Peterson
Dated: 12-17-03

ACOUSTIC ASSOCIATES, LTD.
Specialists in Hearing and Acoustics
1278 W. Northwest Highway, Palatine, IL 60067

January 22, 2004

Specialty Risk Services
P.O. Box 3120
Naperville, Illinois 60566-7120

Attn: Andrew Janz - Acct Specialist

Re: Jarvis Peterson – Your Claim No: YCM 70673

Dear Mr. Janz:

I saw Mr. Peterson for an audiological examination on 1/13/04. He reported an event in March 2003, where he was lifting a heavy package and his ears "popped." This was accompanied by a change in hearing, a "buzzing" sound in his ears, and some dizziness. After seeing an ENT physician, he reported taking a 3-week course of steroids that seems to have helped his hearing and dizziness. However, he continues to have difficulty understanding speech in the presence of noise and continues to experience tinnitus.

Examination
As shown in the attached results, **pure tone audiometry** revealed a bilateral, mild to moderate loss of sensitivity on the left and a flatter, mild loss on the right. **Bone conduction** testing indicated sensory-neural (inner ear) involvement. **Loudness discomfort** levels for tones were within the normal range bilaterally showing no signs of hyperacusis. **Immittance audiometry** revealed normal eardrum compliance, normal middle ear pressure, and essentially normal acoustic reflexes in both ears. During the rapid positive pressure phase of the

immittance testing, I observed no nystagmus and, therefore, failed to demonstrate the presence of an unresolved perilymph fistula. **Speech audiometry** indicated normal word recognition in both ears in quiet. However, when speech was presented in noise (using the Quick SIN test), there was a slight loss of intelligibility.

Mr. Peterson characterized his tinnitus as a "buzzing" sound with occasional overtones. It is present nearly all the time and worse at night. **Pitch matching** suggests a frequency around 750 Hz – although the confidence range on this result is around 500-1000 Hz or wider. **Loudness matching** suggests a level of around 60 dB HL.

Review and Analysis

Since there are no audiometric tests conducted before Mr. Peterson's incident, a change in hearing as a result of this accident cannot be confirmed nor rejected. However, as seen in FIGURE 1, the pattern, symmetry, and degree of hearing loss observed on 4/15/03 (shortly after his incident) is distinctly different than the audiogram we just obtained. Based on this information and a change in hearing that occurred over a time course of only 8 months, it is more likely than not that the incident did affect his hearing. Although Mr. Peterson is 68 years old, his hearing loss cannot be attributed to his age because the time course and degree of hearing loss are not consistent with aging. This is based on the norm for his age as taken from the OSHA tables and plotted in FIGURE 1. Finally, since testing performed a few weeks ago (on 12/30/03) shows a loss of comparable in degree and pattern to his most recent test, it appears that his loss is nearly stable.

Impression

Based on the data and information above, I believe with a reasonable degree of audiological confidence that a change in

hearing did occur as a result of his lifting incident, but that his loss is now stable. Using the Illinois Industrial Commission procedures for calculating the degree of hearing loss per, there is only a 9% loss on the left and a 6% loss on the right.

Mr. Peterson's hearing loss is compounded by tinnitus. In many cases, tinnitus subsides because of the brain's natural ability to habituate to a repetitive sound. This ability can be compromised by anxiety, fear, stress, and emotional reactions. I counseled Mr. Peterson to demystify this condition, discuss sound conditioning strategies to minimize its impact, and to adopt stress reduction techniques to defocus his attention away from the tinnitus.

Recommendations

- A pure-tone audiogram should be performed at 6 months and 12 months to confirm the stability of his hearing loss.

- Provided his physician has ruled out any underlying medical cause to his tinnitus, Mr. Peterson should use sound masking strategies at night to help minimize (but not totally mask) the audibility of his tinnitus. This will help desensitize him to the tinnitus and, over time, help him habituate to it. In addition, he should employ relaxation therapy and stress reduction techniques, which will help alleviate his reaction to the tinnitus.

- There are no recommendations for hearing instruments at this time. However, if his hearing loss and tinnitus do not improve within 6-12 months, he should have a hearing aid evaluation to reassess the need for amplification and tinnitus masking.

- Based on the presumption that his hearing was affected by lifting a heavy package, the resultant physiological changes in his hearing mechanism place him at risk of experiencing a

similar occurrence in the future that may have worse and more lasting effects. This should be considered when reviewing his future job assignments.

Thank you for the opportunity to examine Mr. Peterson and review his case materials. Should you need more information or clarification, don't hesitate to contact me.

Sincerely,

/s/Thomas D. Thunder, AuD, FAAA, INCE
Forensic Audiologist and Acoustical Engineer
Acoustic Associates, Ltd.

Attachments

FACTS OF THE CASE

Defendant's lawyers' in-house notes dated 5/27/04 and 8/23/04.

They state:

Respondent is willing to reinstate Plaintiff. (Why would they do this if I had made discriminatory and insubordinate remarks that are against company policy?)

Respondent is willing to give some money, but not $600,000.

Respondent is willing to give some back wages.

A lot of nepotism exists at Crate & Barrel. This is true.

I feel that the defendant's attorneys were reckless and callous with a complete disregard for my earning power, along with my other benefits, which I also lost. They never told me about these offerings

A lot of pressure has been placed on my wife and myself and she continues to work at age 67-1/2 to help greatly with financial needs.

I feel that some penalty should be placed on these lawyers and the firm they work for as they withheld vital information.

Defendant's Lawyers' In-House Notes

[Transcribed from handwritten notes dated 5/27/04]

p. CB00440

Telecon. with Peterson

5 weeks pay

Cover his wife's insurance until 65

Not pay any of his insurance

CP did not sign

CP does not have an atty

CP feels because he filed a Workers' Comp. claim he was terminated

p. CB00445

About being promoted and believes that the position of Buyer was vacant. Sue Day, Assistant, Age 26, and Karen told him that he was too old – never applied for this position of Buyer. Marta, age 45, was selected for the position of Buyer.

CP did not apply for any supervisory position.

Can only work certain number of hours due to him getting Social Security benefits.

A lot of nepotism.

No witnesses regarding his comments.

68 – full-time Comparative weak allegation

CP was terminated because he was insubordinate by Ms. Muellman

CEO – Gordon Segal, age 64.

CP feels that the CEO was upset because he wrote a letter regarding job harassment

[Transcribed from handwritten notes dated 8/23/04]

p. CB00701
Telecom w/a's atty

Atty indicated that R is not interested in conciliation at this time for the following reasons:

(1) CP wants $600,000.00;
(2) The V.P. saw CP at a restaurant and he made some facial gestures and this is the person who would make the final decision on this case
(3) R is willing to reinstate CP
(4) R is willing to pay CP's wife's COBRA until the age of 65.
(5) R is willing to pay some money but not $600,000
(6) R is willing to give CP some back wages
(7) CP is in court in Sept. 2004.

FACTS OF THE CASE

Job Description when I started, on 11/17/97, "Light Package Delivery."

Job Description revised and restated, 1/28/04 (6-1/2 years later), not by Human Resources, but my supervisor (not her job), now goes from "light package delivery" to up to 50 pounds of lifting at age 69.

I should have been taken off the heavy lifting when I first injured my ears on 3/15/03 and complained often, under threat of losing my job, until I filed claim on 12/7/03 (per supervisor). Two weeks after revision, I was terminated.

The job description also states that I must be available for on-call hours from 6:00 a.m. to 10:00 p.m., along with Saturdays and Sundays.

Both Mrs. Barbara Turf (President) and Mrs. Karen Coakley (Supervisor) told me that I would be paid if I worked or not. They started to pay me for this time, but got caught by the Finance Department and they garnished my wages for 31 months at $100.00 per month until I paid back every dollar they had given me.

September 17, 1997

Pay Scale for Corporate Driver

- Status: Part-Time
- Days per week (Monday, Wednesday, Friday)
- One hour for lunch (not paid)
- On-Call from approximately 6:00 a.m. to 10:00 p.m. those days (16 hours daily)
- Hours are booked on a per job basis, driver keeps log of package and livery jobs and time taken for each
- Hourly Rate: $9.00 from 6:00 a.m. to 6:00 p.m.; $13.50 after 6:00 p.m.
- Availability on an on-call basis for Saturday and Sunday at the rate of $13.50 per hour

Job Description

Driver will provide package delivery to Chicago and suburbs and transportation for designated travelers to and from the airport, offices and home. Will create and maintain a written log tracking the jobs and amount of time for each.

Driver will have use of the company van for such jobs for the hours required on the days worked. Driver will also be outfitted with a beeper to enable access by associates who need delivery services.

A professional appearance and courteous demeanor. Work

efficiently, determine priorities. Responsible, communication skills must be good. Must understand the importance of each job and what it requires in terms of appropriate dress (jacket and tie for picking up outside guests or as requested; clean, business casual attire for package delivery).

Will also be asked to take care of some personal errands for CEO and President; car washes, service, etc., as described by supervisor.

To: Corporate Department Heads – 199, 191 and Catalogue
Reception Desk - 199
Travel Department

From: Karen Coakley (x6805)

Date: November 18, 1997

Re: CORPORATE DRIVER

I am pleased to announce that effective Wednesday, November 19, Pete Peterson will be joining Crate & Barrel as our corporate driver. Pete will be available 3 days a week, on Mondays, Wednesdays and Fridays, for light package delivery and livery service to and from the airport for business travel.

If you have need for these services on these days, you can access Pete directly by his pager number (847) 802-4450. This number should be working by 1:00 p.m. tomorrow afternoon.

If you have any questions, please feel free to call me directly. However, it is not necessary to contact me to schedule a job for Pete.

JOB DESCRIPTION
Revised and Restated January 28, 2004

Title: CORPORATE DRIVER

Reports to: ADMINISTRATIVE COORDINATOR

Purpose: This position was created to make effective use of associates' time and as a cost savings alternative to outside transportation and delivery services.

Duties and Responsibilities:

The Corporate Driver will provide package delivery to Chicago and suburbs, as well as safe transportation for designated travelers, associates and guests to the airport, offices, home and other destinations as dictated by business needs. The Driver will also provide shuttle services to and from the train station on mornings and evenings for associates who require transportation to the corporate headquarters during the work week (Monday-Friday).

Driver will have use of the company van for such jobs for the hours required on the days worked. During the shift, the Driver will be responsible for scheduling deliveries and transportation with and for associates who request these services. The Driver will be outfitted with a beeper to enable access by associates who need delivery services.

A professional appearance and courteous demeanor is required. The driver is responsible for and must be able to determine priorities, and to schedule each job as effectively as possible, making the best use of time. Excellent communication skills are required. The Driver must understand the importance of each

job and what it requires. Clean, business casual attire is appropriate in most cases.

Package delivery will include lifting and carrying packages up to 50 lbs. Heavier objects can be carried at the discretion of the Driver; however, caution should be used to avoid injury. If packages or objects are heavier than 50 lbs., the Driver should arrange with the sender and receiver on each end to have assistance for loading and unloading these items.

Sometimes weekend jobs may be requested of the Driver; however, this may be accepted at the Driver's discretion and are not a requirement of the job.

Driver will keep a detailed log of each job, recording start and finish times, destination and what department or individual requested the job, to be submitted in accordance with each pay period. Expenses for gas, tolls, car washes and other out of pocket expenses must also be recorded and will be reimbursed.

Driver is responsible for cleanliness and maintenance of the corporate van. This includes regular maintenance checks of engine, tires and all working parts, keeping the fuel up and having the van cleaned as needed, inside and out. If there is more than one driver, these responsibilities should be shared and the maintenance schedule should be worked out between them.

Requirements for this Position:

- The Driver must have a current driver's license and an excellent driving record.
- Good communication skills; able to create a schedule independently as jobs come in.
- Must have a neat, clean appearance and a pleasant personality.

- The Driver must be able to lift and carry up to 50 lbs.
- Must be able to find routes and use maps as necessary.

CONCLUSION

I have abided by all laws in filing this case and the Petition for Writ of Certiorari.

I was not given an opportunity to speak on my case, nor did I have my case heard in a bench or jury trial.

Both the District Court and the Court of Appeals made no mention of the following, which appear in my brief in their respective order, and which I classify as prima facie evidence.

1. EEOC correspondence
2. Doctor's Report
3. Performance Reviews
4. Job Descriptions
5. Ms. Muellman's letter to me
6. Defendant's lawyers' in-house notes

If I had made any discriminatory or insubordinate remarks, they would have appeared in my reviews and I should have been terminated, as this was company policy.

But yet they stated in defendant's lawyers' in-house notes that they would be willing to reinstate me. All of the participants, in affidavits, lied about these facts, as I stated in my deposition and in various writings, and should be found guilty of perjury; namely, Coakley, Freund, Muellman, Saltzman, and Segal).

Mr. Segal owes me for a sales contest between him and me (approximately $500,000 to $1,000,000). He related this contest in front of 250 associates in January 2003, and I won.

Also, I have over four years of Daily Reports, wherein heavy lifting was complained about (hundreds of times), and whereby

my job was threatened if I did not do it. Also, age statements made to me by my supervisor, Mrs. Turf, Mr. Segal, and several other associates. Obviously, these reports were too lengthy and numerous to attach to this document.

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60604

App. 1 from the United States District Court
for the Northern District of Illinois, Eastern Division
No. 04 C 7685, James B. Zagel, Judge

May 3, 2007

JARVIS PETERSON,
Plaintiff-Appellant,

v.

EUROMARK DESIGNS, INC.,
d.b.a. CRATE AND BARREL,
Defendant-Appellee.

JUDGMENT – WITHOUT ORAL ARGUMENT

POSNER, KANNE, WOOD, Circuit Judges.

The judgment of the District Court is AFFIRMED, with costs, in accordance with the decision of this court entered on this date.

(1060 - 110393)

UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago, Illinois 60604

Appeal from the United States District Court
for the Northern District of Illinois,
Eastern Division

No. 04 C 7685

Submitted and Decided May 3, 2007*

JARVIS PETERSON,
Plaintiff-Appellant,

v.

EUROMARK DESIGNS, INC.,
d.b.a. CRATE AND BARREL,
Defendant-Appellee.

ORDER

POSNER, KANNE, WOOD, Circuit Judges.

Jarvis Peterson, a former corporate driver for Crate and Barrel, filed suit under the Age Discrimination in Employment Act, 29 U.S.C. §§ 621 - 634 ("ADEA"), Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, and the

*After an examination of the briefs and the record, we have concluded that oral argument is unnecessary. Thus, the appeal is submitted on the briefs and the record. *See* Fed. R. App. P. 34(a)(2).

Illinois Workers' Compensation Act, 820 ILCS 305/1 ("IWCA"), claiming that he was denied transfers to various positions because of both his age and gender, and that he was fired in retaliation for seeking workers' compensation. The district court granted summary judgment for Crate and Barrel because the undisputed evidence establishes that the positions Peterson sought did not even exist and that he was terminated for insubordination. Peterson appeals and we affirm.

Peterson held the position of corporate driver for the seven years he worked at Crate and Barrel, from the time he was 62 until he was 69 years old. His duties consisted of chauffeuring high-level executives, including the CEO, between corporate headquarters and airports or train stations. During his tenure Peterson filed two workers' compensation claims that were both paid in full. Two months after filing the second claim, Peterson was fired.

He subsequently brought this lawsuit, and Crate and Barrel moved for summary judgment. The company submitted human-resources records and numerous affidavits demonstrating that the positions Peterson allegedly sought never existed, that he failed to express interest in a transfer in any event, and that he was terminated because he disparaged the CEO in front of several people (including the CEO himself) both inside and outside of the company. The district court deemed admitted the evidence Crate and Barrel tendered because Peterson failed wholesale to comply with Local Rule 56.1. *See* N.D. Ill. Local R. 56.1(b); *Smith v. Lamz*, 321 F.3d 680, 683 (7th Cir. 2003) ("We have consistently held that a failure to respond by the nonmovant as mandated by the local rules results in an construed admission."). After the court expressly noted that it had liberally construed Peterson's submissions, which consisted mostly of complaints he had sent to human-resources personnel throughout his employment, the court found no evidence to support his claims

or undermine the company's explanations.

We review the grant of summary judgment *de novo*. *Rudin v. Lincoln Land Cmty. Coll.*, 420 F.3d 712, 719 (7th Cir. 2005). ADEA and Title VII claims can be established under either the direct or indirect methods of proof. *See Raymond v. Ameritech Corp.*, 442 F.3d 600, 610 (7th Cir. 2006). To establish an IWCA claim, according to Illinois law, a plaintiff must show that he exercised a right granted by the Workers' Compensation Act and that he was discharged from his employment with a causal connection to his exercise of that right. *See Carter v. Tennant Co.*, 383 F.3d 673, 677 (7th Cir. 2004) (citing *Kritzen v. Fender Corp.*, 589 N.E.2d 909, 915 (Ill. 1992)). "The element of causation is not met if the employer has a valid basis, which is not pretextual, for discharging the employee." *Hartlein v. Ill. Power Co.*, 601 N.E. 2d 720, 728 (Ill. 1992). Although the Supreme Court of Illinois has rejected the application of the indirect method to Illinois retaliatory discharge cases, *see Clemons v. Mech. Devices Co.*, 704 N.E.2d 403, 407-08 (1998), we have said plaintiffs can also use the indirect method to establish an IWCA claim. *See Bourbon v. Kmart Corp.*, 223 F.3d 469, 473 (7th Cir. 2000).

On appeal, Peterson's brief barely complies with Fed. R. App. P. 28(a)(9)(A). He fails to even discuss his ADEA and Title VII claims, and thus we have no basis to overturn the district court's decision as to those theories. *See Ajayi v. Aramark Bus. Servs., Inc.*, 336 F.3d 520, 529 (7th Cir. 2003) (explaining that appellant waives any claim of error concerning aspects of the district court's decision that are not challenged in his brief on appeal). As to his IWCA claim, we understand him to contend that the district court erred in denying it because, according to Peterson, Crate and Barrel's purported reason for terminating him–his insubordination–was pretextual. *See McCready v. Ebay, Inc.*, 453 F.3d 882, 890 (7th Cir. 2006) (explaining that we liberally

construe *pro se* findings). But we must accept the version of events set forth in the company's statement of material facts because Peterson does not contest the district court's decision to enforce compliance with Local Rule 56.1 by deeming that statement admitted. *See Ajayi*, 336 F.3d at 529. And our only concern in reviewing an employer's reasons for termination is the "honesty of the employer's beliefs," *Forrester v. Rauland-Borg Corp.*, 453 F.3d 416, 419 (7th Cir. 2006), which here is not undermined by the materials that Peterson points to. For example, he directs our attention to his right-to-sue letter and the company's employee pay scales, neither of which speaks to whether the company honestly believed Peterson had been insubordinate. In any event, we need not reach the question of pretext unless Peterson, at a minimum, establishes a prima facie case of retaliation, *see Clemons*, 704 N.E.2d at 407-08; *St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502, 507-08 (1993), which Peterson has failed to do.

Accordingly, the judgment is AFFIRMED.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60604
Appeal from the United States District Court
for the Northern District of Illinois, Eastern Division
No. 04 C 7685
James B. Zagel, Judge

Decided May 29, 2007
No. 04 C 7685

JARVIS PETERSON,
Plaintiff-Appellant,

v.

EUROMARK DESIGNS, INC.,
d.b.a. CRATE AND BARREL,
Defendant-Appellee.

ORDER

POSNER, KANNE, WOOD, Circuit Judges.

On consideration of the petition for rehearing filed in the above-entitled cause, all of the judges on the original panel have voted to deny a rehearing. It is, therefore, ORDERED that the petition for rehearing is DENIED

APPENDIX C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 04 C 7685

[Filed December 1, 2006]

JARVIS PETERSON,)
Plaintiff,)
)
v.)
)
EUROMARKET DESIGNS, INC.,)
d/b/a CRATE AND BARREL,)
Defendant.)
)

MEMORANDUM OPINION AND ORDER

ZAGEL, District Judge.

Jarvis Peterson filed a four-count complaint against Euromarket Designs, Inc., d/b/a Crate and Barrel ("C&B"). Currently before me is C&B's Motion for Summary Judgment. For the reasons that follow, that motion is granted.

I.
Background

Mr. Peterson began working for C&B as a corporate driver in November, 1997. At the time he was hired, Mr. Peterson was 62 years old. He continued working there until he was terminated in February, 2004.

While his supervisors generally believed that Mr. Peterson performed his job well, they did talk to him on occasion about issues such as not talking on assignments, exercising discretion regarding what he overheard, and conduct that was at times unprofessional. Human resources ("HR") also counseled him for a potentially discriminatory remark that some coworkers asserted he made.

Throughout his tenure with C&B, Mr. Peterson orally expressed interest in four other positions within the company. He did not submit an application, resume, or any other written expression of interest for these positions. He also did not ask about the process for applying for any of the four positions, the requisite qualifications for any of the four positions, or the job duties of any of the four positions. He maintained his original position – corporate driver – throughout his tenure with C&B.

In August, 1998, Mr. Peterson fell down a flight of stairs, and subsequently filed a workers' compensation claim. That claim was paid in full. Mr. Peterson testified in his deposition that he was neither terminated nor threatened with termination after filing that claim.

In March, 2003, Mr. Peterson claims to have suffered an on-the-job injury to his ears. He asserts it occurred after a lifting incident. In December, 2003, he filed a second workers' compensation claim. All of the submitted doctors' bills

associated with Mr. Peterson's December, 2003 claim have been paid in full. Mr. Peterson, however, has not further prosecuted the claim.

A few months after filing the second claim, Mr. Peterson was with C&B's CEO, Gordon Segal.[1] Mr. Peterson told Segal that he had a "severe" problem with his ears, and that "69 or 70-year old men should not be required to do heavy lifting." Mr. Peterson also suggested that Segal had been communicating with Mr. Peterson's doctor, Dr. Weingarten, about Mr. Peterson. He accused Segal of trying to get Dr. Weingarten to alter Mr. Peterson's diagnosis and treatment. Segal told Mr. Peterson that he had done no such thing, and that he was shocked by the allegation.

Unsatisfied with Segal's response, Mr. Peterson wrote a complaint about Segal's comments and treatment of him and submitted it to HR. During the investigation into Mr. Peterson's complaint, Mr. Peterson told an HR official that he believed Segal was harassing him because of his most recent workers' compensation complaint. The HR official also spoke with the company's Workers' Compensation and Safety Administrator, Jennifer Freund. Freund reported that Mr. Peterson had also told her that he thought Dr. Weingarten had changed his treatment as a result of his (Weingarten's) friendship with Segal. She also reported that Mr. Peterson had said on prior occasions that he was not afraid of Segal and that he (Peterson) was bigger than Segal.

Some time after this initial conversation, Freund contacted the HR official again to let her know that Mr. Peterson had

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[1]Part of Mr. Peterson's duties as a corporate driver involved driving the CEO and other senior managers to and from the airport.

repeated his accusations about Segal attempting to influence Dr. Weingarten's treatment of Mr. Peterson. This time, however, Mr. Peterson made the comments to people outside the company: to Dr. Weingarten himself and to an adjuster working for C&B's workers' compensation administrator.

The HR official considered these comments to be grossly insubordinate and lacking in sound judgment. Accordingly, she had a meeting with Mr. Peterson on February 11, 2004, in which she told him that he was being terminated due to insubordination to the head of the company.

Mr. Peterson subsequently filed this action. On June 29, 2005, Mr. Peterson filed his First Amended Complaint. His action now consists of five counts; he alleges: (1) discrimination on the basis of sex; (2) retaliation for opposing the sex discrimination to which he was subjected; (3) discrimination on the basis of age; (4) retaliation for opposing the age discrimination to which he was subjected; and (5) retaliation based on the filing of a workers' compensation claim.

II.
Discussion

A. Summary Judgment Standard

Summary judgment is proper if the "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed.R.Civ.P. 56(c); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 322-33 (1986) (stating that summary judgment will be granted "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party

will bear the burden of proof at trial"). If the moving party meets this burden, the nonmoving party must then go beyond the pleadings and set forth specific facts showing that there is a genuine issue for trial. Fed. R. Civ. P. 56(e). A genuine issue of material fact exists when there is evidence on the basis of which a reasonable jury could find in the plaintiff's favor, allowing for all reasonable inferences drawn in a light most favorable to the plaintiff. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). The non-moving party must offer more than "[c]onclusory allegations, unsupported by specific facts" in order to establish a genuine issue of material fact. *Payne v. Pauley*, 377 F.3d 767, 773 (7th Cir. 2003) (*citing Lujan v. Nat'l Wildlife Fed'n*, 497 U.S. 871, 888 (1990)).

B. Local Rule 56.1

All parties before this court are bound by the Local Rules of the United States District Court for the Northern District of Illinois. Local Rule 56.1(b) dictates what a party opposing a motion for summary judgment must do. The rule states:

> Each party opposing a motion filed pursuant to Fed.R.Civ.P. 56 shall serve and file–
>
> (1) any opposing affidavits and other materials referred to in Fed.R.Civ.P. 56(e);
> (2) a supporting memorandum of law; and
> (3) a concise response to the movant's statement that shall contain:
>
> (A) numbered paragraphs, each corresponding to and stating a concise summary of the paragraph to which it is directed, and
>
> (B) a response to each numbered paragraph in the moving

> party's statement, including, in the case of any disagreement, specific references to the affidavits, parts of the record, and other supporting materials relied upon, and
>
> (C) a statement, consisting of short numbered paragraphs, if any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the record, and other supporting materials relied upon. Absent prior leave of Court, a respondent to a summary judgment motion shall not file more than 40 separately-numbered statements of additional facts. All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party.

Local Rule 56.1(b).

In response to C&B's Motion for Summary Judgment, Mr. Peterson filed a handwritten letter entitled "Summary Judgment Answer." He included with that letter a barrage of other materials, including additional handwritten notes and other documents. Mr. Peterson has not, however, filed a memorandum of law, he has not responded to C&B's statement of undisputed material facts, and he has not provided a statement – as defined by the rules – of additional facts of his own.

While Mr. Peterson was represented by counsel when this action commenced, he now represents himself. It is true that I will liberally construe a *pro se* litigant's filings. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972); *Hudson v. McHugh*, 148 F.3d 859, 864 (7th Cir. 1998) ("The essence of liberal construction is to give a pro se plaintiff a break when, although he stumbles on a technicality, his pleading is otherwise understandable.") However, Peterson's *pro se* status does not relieve him of the

burdens of this court's procedural requirements. *See Members v. Paige*. 140 F.3d 699, 702 (7th Cir. 1998). Employment discrimination cases are extremely fact-intensive, and I am not "obliged in our adversary system to scour the record looking for factual disputes. . ." *Waldridge v. American Hoechst Corp.*, 24 F.3d 918, 921-22 (7th Cir. 1994); *see also Greer v. Board of Educ. of City of Chicago, Ill.*, 267 F.3d 723, 727 (7th Cir. 2001) ("[A] lawsuit is not a game of hunt the peanut."); *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991) ("Judges are not like pigs, hunting for truffles buried in briefs.").

Further, in accordance with Local Rule 56.2, C&B served Mr. Peterson with a notice to a *pro se* litigant form setting forth in detail Local Rule 56.1's requirements. Thus, Mr. Peterson is expected to comply with Local Rule 56.1. Local Rule 56.1 statements and responses that do not properly cite to the record are subject to my discretion as to their admission. *See Brasic v. Heinemann's Inc.*, 121 F.3d 281, 284 (7th Cir. 1997). None of Mr. Peterson's submissions cite to the record. Moreover, statements that are not contested are deemed admitted. *Brengettcy v. Horton*, 423 F.3d 674, 681 (7th Cir. 2005). As noted, Mr. Peterson failed to refute any of C&B's statements.

C. Mr. Peterson's Age and Sex Discrimination and Retaliation Claims.

In Counts I through IV, Mr. Peterson complains of discrimination and retaliation based on sex and age. He alleges that C&B discriminated against him both by denying him promotions, and by terminating him.[2]

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[2]While Mr. Peterson's First Amended Complaint alleges that he was terminated as a result of his age and sex, Mr. Peterson testified in his deposition that he was fired in retaliation for filing his workers' compensation claims, and not as a result of his age or his sex. These age and

Mr. Peterson may establish his age and sexual discrimination claims (Counts I through IV) by either direct proof or indirect proof. *Raymond v. Ameritech Corp.*, 442 F.3d 600, 610 (7th Cir. 2006). The direct method requires Plaintiff to offer some proof that but for his protected conduct, he would not have suffered an adverse job action. *Stone v. City of Ind. Pub. Utils. Div.*, 281 F.3d 640, 643 (7th Cir. 2002). Mr. Peterson offers no facts whatsoever in response to C&B's Motion for Summary Judgment and therefore fails to satisfy his burden via the direct method.

Under the indirect method, Mr. Peterson must prove four elements to establish a *prima facie* case: (1) he is a member of a protected class; (2) he was performing at a level that met his employer's legitimate expectations; (3) he was subject to an adverse employment action; and (4) he was treated differently than a similarly situated person outside his protected class. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973); *Raymond*, 442 F.3d at 610.

If Mr. Peterson establishes his *prima facie* case, then the burden would shift to C&B to "articulate some legitimate, nondiscriminatory reason" for its termination. *McDonnell Douglas*, 411 U.S. at 802; *Goodwin v. Board of Trustees of Univ. of Ill.*, 442 F.3d 611, 617 (7th Cir. 2006). Once C&B does so, Mr. Peterson must show that C&B's justification is pretextual. *McDonnell Douglas*, 411 U.S. at 804; *Goodwin*, 442 F.3d at 617-18.

Again, Mr. Peterson offers no facts whatsoever. Nevertheless, C&B succeeds, at the very least, in establishing

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gender claims are probably lost for this reason alone. Despite this, I will consider the record with regard to them.

that even if Mr. Peterson were able to establish a *prima facie* case, that it had a legitimate, nondiscriminatory reason for terminating him. The disparaging and insubordinate comments that Mr. Peterson made about C&B's CEO Gordon Segal satisfy C&B's burden. It is settled law that "[i]nsubordination is a legitimate, non-discriminatory reason for firing an employee." *Flores v. Preferred Tech. Group*, 182 F.3d 512, 515 (7th Cir. 1999); *accord Plair v. E.J. Brach & Sons*, 105 F.3d 343, 345 (7th Cir. 1997). While Mr. Peterson theoretically could defeat summary judgment by providing that this reason was mere pretext, *Goodwin*, 442 F.3d at 617-18, he fails to do that here. Accordingly, summary judgment is proper against Mr. Peterson on Counts I through IV.

D. Mr. Peterson's Claim for Retaliatory Discharge – Workers' Compensation

In Count V of his First Amended Complaint, Mr. Peterson alleges that he was terminated as a result of filing his workers' compensation claims. Under Illinois law, "[a] valid claim for retaliatory discharge requires a showing that (1) an employee has been discharged; (2) in retaliation for the employee's activities; and (3) that the discharge violates a clear mandate of public policy." *Bourbon v. Kmart Corp.*, 223 F.3d 469, 472 (7th Cir. 2000) (*citing Hartlein v. Ill. Power Co.*, 601 N.E.2d 720, 728 (1992)). "In the workers' compensation context, a plaintiff must show (1) that he was the defendant's employee before his injury; (2) that he exercised a right granted by the Workers' Compensation Act; (3) and that he was discharged from his employment with a causal connection to his filing a workers' compensation claim." *Hiatt v. Rockwell Int'l Corp.*, 26 F.3d 761, 767 (7th Cir. 1994) (*citing Kritzen v. Flender Corp.*, 589 N.E.2d 909, 915 (1992)). Illinois courts also hold that "[t]he element of causation is not met if the employer has a valid basis, which is not pretextual, for discharging the employee." *Hartlein*,

601 N.E.2d at 728.

Irrespective of whether Mr. Peterson's claim is evaluated under the standards set forth by Illinois courts or under the *McDonnell Douglas* burden shifting analysis,[3] the result is the same.

Either way, C&B has established a valid, non-pretextual reason for terminating Mr. Peterson, to wit, the insubordinate comments Mr. Peterson made about C&B's CEO in and outside of the company. Mr. Peterson does not deny making these statements. Therefore, summary judgment is appropriate against Mr. Peterson on Count V.

III.
Conclusion

For the preceding reasons, Defendant's Motion for Summary Judgment is GRANTED in its entirety.

December 1, 2006

/s/ James B. Zagel
United States District Judge

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[3]It is unclear whether the *McDonnell Douglas* burden shifting analysis should be applied to a claim for retaliatory discharge under Illinois law. "[T]he Supreme Court of Illinois expressly rejected the application of *McDonnell Douglas* to Illinois retaliatory-discharge cases in *Clemons v. Mech. Devices Co.*, 184 Ill.2d 328, 235 Ill.Dec. 54, 704 N.E.2d 403, 407-08 (1998)." *Bourbon*, 223 F.3d at 474 (Posner, J., concurring). The Seventh Circuit has nevertheless held that "Illinois retaliatory discharge cases brought in federal court may be analyzed using the burden-shifting method presented in *McDonnell Douglas*," rather than the approach outlined by the Illinois courts. (*Id.* at 473 citing *Hiatt*, 26 F.3d at 767). The question is purely academic for purposes of this case, however, as the result is the same either way.

APPENDIX D

FACTS OF THE CASE

Performance Reviews:

Year Ended November 1998
Year Ended November 19, 2000
Year Ended November 19, 2001
Year Ended November 19, 2002
Year Ended November 19, 2003

Recognition Letter from Ms. S. Muellman

The Defendant's attorneys stated in their briefs and in several affidavits that I was insubordinate and made discriminatory remarks, as did both Courts. If I had, which I did not, they would have appeared in my Performance Reviews and in Ms. Muellman's letter to me and I should have been terminated per company policy.

The people who said the above in their affidavits perjured themselves.

See in-house notes: Crate & Barrel was willing to reinstate me.

PERFORMANCE REVIEW

Pete Peterson
Year Ended November 1998

Summary of past year performance

Pete joined Crate & Barrel in November, 1997 as one of two part-time corporate drivers. A newly created position, his responsibilities included package and mail delivery from the corporate headquarters to various locations in Chicago and the suburban areas surrounding, as well as livery service for Crate associates and business guests to O'Hare and Midway airports and other destinations as requested.

As with any new position, there were a number of procedures that needed to be worked about to make efficient use of Pete's time. Requests for these services would be made directly to Pete, who would schedule time for each depending on the order and level of importance.

Strengths

Outgoing personality – Positive attitude – Punctual – Dependable

Pete has made a very positive impact as our corporate courier. He has an outgoing personality and a "can-do" attitude that encourages people to work with him. There are a number of regular deliveries that Pete handles for Graphics, Import and other departments that have saved time and money arranging for delivery from outside sources. He quickly got to know people in the company in various departments and learned how to schedule jobs efficiently. I believe Pete tries to accomplish as much as possible, but he is also realistic and is very straightforward if he

does not feel he can fill a request.

I think Pete takes his role seriously – he is dependable and does not hesitate to let you know where he stands. The job is set up so that Pete books all jobs and as such, works independently. He dresses appropriately for the job and is punctual. He considers himself a team player and understands that his position is important in terms of helping all departments be more efficient.

Performance goals

Because Pete comes in contact with so many people, both inside and outside of the company, he sees and hears a great deal. Being of a social nature, it is important that Pete uses discretion in sharing or discussing information.

Salary recommendation for year ended November, 1998 for Pete Peterson. His hourly rate will be increased from $9.00 to $9.50 per hour, retroactive to his anniversary date.

Pete has come up with a number of ideas as his role has grown in the past year, some of them have been implemented. When we do hire a new courier, I hope Pete will assist this person in learning their responsibilities and develop a good working relationship. This should provide a good flexibility and back up for both of our couriers.

Pete is very well liked by many of his coworkers, which is great. He has a sense of humor and can be a lot of fun; however, sometimes I think he "steps over the line" and can be inappropriate. Though infrequent, there have been a couple of instances when he has done this, and when brought to his attention, he has been defensive. I appreciate that Pete does a good job and is proud of what he has accomplished (I am, too)

– however, everyone makes mistakes and it is important that he considers a constructive criticism before dismissing it out of hand.

Overall, Pete is a great employee who has made a real difference both personally and professionally to many people at the Crate headquarters. I look forward to working with him in the coming year.

/s/ Jarvis R. Peterson
Associate

1/28/99

Pete Peterson
Annual Review for Year Ended 11/19/00
(Review given 1/5/01)

Summary of Past Year Performance:

Pete has completed his third year as one of our two corporate drivers, working a part-time schedule of Monday, Tuesday and Wednesday each week.

He is punctual and personable. Tries to serve all requests without preference to a department or specific person.

Pete has an outgoing, friendly nature. He has made many friends at Crate and Barrel.

Will often go the extra mile when asked (picking up before or after hours).

Overall a good communicator on jobs.

Shares the maintenance of the corporate van with Bob Keenley. Together they take excellent care of the company vehicle.

On occasion, mistakes happen with pick-up times or flight numbers. When this happens, regardless of whose mistake it is, I would like to see Pete take this more in stride. He can be somewhat defensive if there is an error, and there really is no reason for this.

In summary, Pete continues to provide dependable service that has increased efficiency and productivity within each department.

Effective with his anniversary date, Pete's hourly rate will be increased from $11.00 to $12.50, retroactive to 11/20/00.

/s/ Jarvis R. Peterson
Associate

/s/ Karen M. Coakley
January 5, 2000 Supervisor

Pete Peterson
Annual Review for Year Ended 11/19/01

Summary of Past Year's Performance

This past year was one of exceptional growth and change for the company, one of the most evident being the move to a new corporate headquarters in October. Preparing for this event affected all associates, including our corporate drivers.

Pete, along with Bob Keenley, has shared the responsibilities

of providing delivery and shuttle services to our associates at the corporate headquarters. Pete works a 3-day per week shift, Wednesday through Friday. He is well-known by all at the office and comfortable in his duties.

When we moved to the new headquarters, Pete and Bob were asked to provide shuttle services to and from the Northbrook train station, on a temporary basis, until we could determine a more cost effective alternative. The shuttle service began in late October and will continue at least through the end of the year, or perhaps through the winter. Pete has been extremely conscientious and reliable in assuming these duties. We will be discussing whether or not it would be worthwhile for the drivers to continue these services long term.

Pete is very dependable. When he says he will do something, he does it. The only issue I have with him in this area is that he is sometimes too conservative in the amount of time he estimates to get a job done. He will occasionally refuse a job because he feels it will take too long. I understand trying to determine the amount of time a delivery will take can be tricky due to traffic, weather or construction, or that he may be concerned about being able to make the evening shuttle. However, on the occasions that he has been asked to try, he is able to complete the tasks requested well within the time limit.

Because he has many friends in the company and we work in a casual atmosphere, I'd like to remind Pete that he should always use discretion when talking with associates. He is frequently asked to do pick-ups and deliveries for our top executives of a personal nature, and these should be done with confidentiality and professionalism.

Effective with his anniversary date, Pete's hourly rate will be increased from $12.50 to $13.25, retroactive to 11/21/01.

/s/ Jarvis R. Peterson
Associate

/s/ Karen M. Coakley
December 14, 2001 Supervisor

Pete Peterson
Annual Review of Year Ended 11/19/02
(Given January 3, 2003)

Summary of Past Year's Performance

Pete continued on this year as one of our two corporate drivers and completing his fifth year at Crate & Barrel. His responsibilities of providing delivery and shuttle services to our associates at the corporate offices remain a valuable support to the company.

Pete has always strived to fulfill the requirements of his job. He is conscientious and dependable, on time and has a fine attendance record. His driving record is very good and he is friendly and thoughtful of many of his fellow associates. He has, on numerous occasions, filled in for Bob Keenley during Bob's vacation or other off time. Other than scheduled vacation time, Pete rarely has asked Bob to fill in for him, even though Bob has consistently offered to exchange days within a particular week.

I believe Pete really enjoys his job. He seems to feel very much a part of the company and that he makes a contribution to every department through his role as a corporate driver. Pete has an outgoing personality and will offer his opinions openly. On some occasions, Pete has disagreed with the company's policies

and procedures, and seems defensive with the way Human Resources has responded to his inquiries. I'd like to discuss this with Pete.

Pete indicated in his self-evaluation that he has often done many favors for associates on company time. While this is a very nice thing to do if these are personal favors, since they are done on company time, they should be done only during "down time" and with discretion. The friendly and supportive atmosphere in our company lends itself helping people out beyond the requirements of the job; however, doing a personal favor for an associate should not prevent him from ever taking on or completing a business request.

The shuttle services to and from the Northbrook train station since moving to our new headquarters in October 2001 have become part of the corporate courier's regular duties. While this has brought more structure to the day (two pick-ups are done first thing in the morning and one or two in the evening), it has lengthened the hours per day worked for Pete and Bob. Because Pete works three days out of five, these extra hours enabled him to qualify for full-time status and benefits, which he requested and received effective in May, 2002.

Included with his self-appraisal, Pete requested to be recompensed for the difference in overtime pay he earned as a part-time associate through an increase in his hourly rate. He also has requested that his part-time vacation benefits earned over the past 4-1/2 years be counted again toward his new status as a full time employee. Since these two issues do not relate to Pete's performance, they will be addressed separately from his review.

Based on Pete's performance this past year, effective with his anniversary date, his hourly rate will be increased from $13.25

to $14.00, retroactive to November 21, 02.

/s/ Karen Coakley
January 3, 2003 Supervisor

Pete Peterson
Annual Review of Year Ended 11/19/03
(Given December 5, 2003)

Summary of Past Year's Performance

Pete completed his sixth year as one of our two corporate drivers at Crate & Barrel. It goes without saying that he understands the responsibilities of the job, which are to provide package delivery and shuttle services to our associates and outside contacts as requested.

The corporate courier role has remained essentially unchanged throughout the years. The most significant changes have been that we have more "regularly scheduled" deliveries than we did in the past. Two of them are the almost daily delivery of food and beverages from corporate headquarters to North & Clyborn for the Crate Café. And the other is the train shuttle that happens Monday through Friday before and after work hours. Both of these jobs have given more structure to the couriers' days. Sometimes there are conflicts with exceptions, but these occurrences seem to be rare.

Pete is dependable, on time and has a fine attendance record. His driving record is very good.

There have been a couple incidents where Pete feels a request is inappropriate for his job description and has shown frustration

and annoyance with the people making the request. An example is the food delivery down to North & Clyborn. Pete has told some of the warehouse people that the bins are too heavy; at first he refused, then said he needed to have someone on either end available to load and unload. This is certainly a reasonable request; however, it is Pete's approach that is wrong. Instead of seeing the request as a job with a problem to be resolved, his reaction is defensive to the point where some people prefer to wait and ask Bob.

Another issue that needs to be addressed is Pete's attitude toward his work status. A year ago in May, 2002, Pete requested and received full-time status and benefits because he worked an average of 10 hours a day 3 days per week. In doing so, this eliminated the daily overtime incentive pay he would have earned working part-time. Crate & Barrel is the kind of company that tries to support its associates whenever possible; however, Pete has stated verbally and in writing how unhappy he is with this situation. Throughout several memos he has written to Human Resources and me, he clearly feels cheated and that the company is wrong in its compensation and benefits policies where they concern him. We have responded to him each time he has written or requested a meeting; despite this, he remains dissatisfied without response.

This has been going on since before Pete's status was changed. It is unfortunate that these issues are unresolved for Pete. My concern is that it has changed his attitude toward me as his supervisor and his willingness to try to do the best job possible. I would like to put to rest these issues with Pete. I expect discretion from him in not discussing it with other associates and to be as professional as possible in his duties.

Based on Pete's performance this past year, effective with his anniversary date, his hourly rate will be increased from $14.00

to $14.75, retroactive to November 21, 2003.

/s/ Jarvis R. Peterson
December 5, 2003 Associate